



State of California • Arnold Schwarzenegger, Governor  
State and Consumer Services Agency

## DEPARTMENT OF GENERAL SERVICES

### Division of the State Architect

Headquarters • 1102 Q Street, Suite 5100 • Sacramento, CA 95814  
(916) 445-8100 • Fax (916) 445-3521 • [www.dsa.dgs.ca.gov](http://www.dsa.dgs.ca.gov)

## TITLE 21. DIVISION OF THE STATE ARCHITECT

### NOTICE OF INTENTION TO ADOPT VOLUNTARY CERTIFIED ACCESS SPECIALIST PROGRAM

**NOTICE IS HEREBY GIVEN** that the Division of the State Architect (DSA) proposes to adopt regulations contained in the California Code of Regulations (CCR), Title 21, Division 1, Chapter 1, Subchapter 2.5 after considering all comments, objections, and recommendations regarding the proposed action.

### PUBLIC HEARING

At this time, no public hearing has been scheduled concerning the proposed adoption. However, pursuant to Government Code Section 11346.8, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period that a public hearing be held.

### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written statements, arguments, or comments relevant to the proposed regulatory action to DSA, by submitting them in writing no later than July 23, 2007 until 5pm. DSA will consider only comments received at DSA by that time. Submit comments to:

Division of the State Architect  
1102 Q Street, Suite 5100  
Sacramento, CA 95814  
Attention: Rod Higgins, Senior Architect (Supervisor)

Written comments may also be faxed to (916) 445-7658 or emailed to: [CASprogram@dgs.ca.gov](mailto:CASprogram@dgs.ca.gov)

### AUTHORITY AND REFERENCE

Government Code Sections 4459.5 and 4459.7 authorized the State Architect to adopt the proposed regulation, which would implement, interpret, or make specific Sections 4450 through 4460, 12955.1(d) through 12955.1.1 of the Government Code, Sections 19952 through 19959 of Health and Safety Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Division of the State Architect proposes to adopt Articles 1 through 5 in Title 21, Division 1, Chapter 1, Subchapter 2.5 of the California Code of Regulations (CCR). These sections concern a Voluntary Certified Access Specialist Program which includes: Article 1 (General Provisions), Article 2 (Definitions), Article 3 (Certification Process), Article 4 (Fees), and Article 5 (Enforcement).

Government Code Sections 4459.7(a) through 4459.8(b) also provide the State Architect to annually publish and make available to the public a list of Certified Access Specialists (CASp) and provide that this certification is effective for 3 years and renewable.

The purpose of the Voluntary Certified Access Specialist Program is to establish a state body for voluntary certification of competence as a Certified Access Specialist, as enacted by Chapter 872, Statutes of 2003.

**In Article 1 (General Provisions)** is adopted to provide for the purpose for the establishment, enforcement and administration of subsequent requirements of the Voluntary Certified Access Specialist Program.

**Proposed adoption of Regulation Section 111** establishes purpose of the Chapter. These regulations are adopted by the Division of the State Architect to implement and make specific the Voluntary Certified Access Specialist Program commencing with Section 4459.5 of the Government Code.

Participation in this program is voluntary and is designed to ensure that the individuals participating in this certification program are knowledgeable with state and federal accessibility laws and regulations and possess the expertise to promote access to facilities for persons with disabilities.

**Proposed adoption of Regulation Section 112** will provide clarity on authority. The State Architect is responsible for determining the criteria for eligibility and certification of individuals participating in this Voluntary Certified Access Specialist Program pursuant to the provisions of Chapter 7, Division 5, Title 1, Government Code, commencing with Sections 4459.5 – 4459.8.

Certification shall only be granted by the Voluntary Certified Access Specialist Program, which operates within the Division of the State Architect.

**Proposed adoption of Regulation Section 113** will define the scope of work. Services rendered by a CASp, upon request by a facility owner, may include the following:

- a) Review of facility plans and specifications for compliance with current state and federal accessibility codes and regulations.
- b) Investigate a facility for compliance with current state and federal accessibility codes and regulations.
- c) Conduct accessibility research, prepare accessibility reports, and/or conduct accessibility inspections, as requested.

**Proposed adoption of Regulation Section 114** will define the scope of work limited to design professionals. Only design professionals licensed and/or registered by the State of California as an architect, landscape architect, civil engineer, and/or structural engineer shall provide professional design services permitted by their applicable license or registration.

**In Article 2 (Definitions)** are adopted to maintain a consensus on the specific meaning of terms contained in this regulation. Article 2 performs this function by stating clearly what specific terms mean for purposes of this regulation.

**Proposed adoption of Regulation Section 121** will provide clarity on definition of terminology.

**“Access Requirement”** means a provision for disability access in any federal or state law, regulation, building code or government standard, applicable to the design, construction or inspection of facilities.

**“Access Specialist”** means any individual currently holding a certificate of Certified Access Specialist.

**“CASp”** is an acronym for **“Certified Access Specialist”**.

**Facility”** means all or any portion of buildings, site improvements, roads, walks, passageways, or parking lots.

**“GED”** means General Equivalency Diploma.

**“Program”** means the Voluntary Certified Access Specialist Program.

**In Article 3 (Certification Process)** is adopted to address the application process, criminal convictions process, education and experience qualification, candidate examination, certification qualification and certification renewal process.

**Proposed adoption of Regulation Section 131** will clarify the application process. In order to apply to be a CASp, candidates must submit a completed Candidate Eligibility Application form to establish eligibility for the certification examination.

**Proposed adoption of Regulation Section 132** will provide clarity on the criminal convictions process.

- a) The State Architect or Designee may deny acceptance of an applicant into the Program because of a criminal conviction as set forth in Section 151 (a) (2).
- b) The State Architect or Designee may require the applicant or certificate holder to provide documents concerning criminal convictions as set forth in Section 151 (a) (2) including, but not limited to, certified court documents, certified court orders or sentencing documents. Failure to provide those documents may result in application denial, certificate suspension, or denial of certification renewal.

**Proposed adoption of Regulation Section 133** will provide clarity on education and experience qualification. Minimum candidate education and experience eligibility for examination acceptance may be satisfied by:

EITHER:

**(A)1 Education:** Thirty semester units of college coursework with major work in Architecture, Architectural Technology, Building Science, City and Regional Planning, Civil Engineering, Construction Management, Environmental Design, Industrial Design, Interior Architecture/Design, Landscape Architecture, Urban and Regional Design; and

**(A)2 Experience:** Two years of full-time employment by:

- a) a code enforcement agency (state, city, and/or county building department); as a plan reviewer, building inspector, or consulting entity; or
- b) a licensed architect, licensed landscape architect, interior designer, registered civil engineer and/or registered structural engineer and with responsibility for planning, design, and/or field inspection; or
- c) a licensed general contractor (Class A or B) as the owner and/or a superintendent.

OR:

**(B)1 Education:** High school diploma or GED; and

**(B)2 Experience:** Four years of full-time employment by:

- a) a code enforcement agency (state, city, and/or county building department); as a plan reviewer, building inspector, or consulting entity; or
- b) a licensed architect, licensed landscape architect, interior designer, registered civil engineer and/or registered structural engineer and with responsibility for planning, design, and/or field inspection; or
- c) a licensed general contractor (Class A or B) as the owner and/or a superintendent.

OR:

(C) Three years of full-time employment in a specialized area of disability access rights, conducting assessments of facilities to determine adequacy related to the specific needs of the disabled community.

OR:

(D) Professional license, or registration, issued by the State of California as an architect, landscape architect, civil engineer, and/or structural engineer.

**Proposed adoption of Regulation Section 134** will provide clarity on the knowledge requirements for the certification examination. An examination will be administered to assess each candidate's knowledge of access requirements. The examination may cover a variety of areas including:

- a. Title II, Title III, and Title V of the *Americans with Disabilities Act of 1990* (42 USC Chapter 126), and promulgating regulations, the *Americans with Disabilities Act Accessibility Guidelines (ADAAG)*.
- b. Provisions for accessibility throughout all parts of the current edition of the *California Building Standards Code*.
- c. Provisions for accessibility in California statutes in the *Government Code*, *Health and Safety Code*, and *Civil Code*.
- d. *Fair Housing Amendments Act of 1988* (42 USC Sections 3601–3620) and promulgated technical guidance in the *Fair Housing Accessibility Guidelines*.
- e. *Architectural Barriers Act of 1968*, as amended (42 USC Section 4151 et seq) and promulgating regulations, the *Uniform Federal Access Standards (UFAS)*.
- f. *American National Standard for Accessible and Usable Buildings and Facilities* (ANSI A117.1).
- g. California Department of Housing and Community Development (HCD) *Model Ordinance for Universal Design* (Chapter 726 of Statutes of 2002, adopted Section 17959 of the Health & Safety Code).
- h. New Home Universal Design Checklist (Section 17959.6 of the Health and Safety Code).

**Proposed adoption of Regulation Section 135** will provide clarity on certification qualification. A candidate becomes eligible for certification as a CASp after attaining a passing score on the Candidate Examination. The passing standard for the examination shall be established in accordance with professional standards such as the *Standards for Educational and Psychological Testing* (AERA/APA/NCMA, 1999), the *Principles for the Validation and Use of Personnel Selection Procedures*, the *Federal Uniform Guidelines on Employee Selection Procedures* (1978), and recommendations described in the *Standards for the Accreditation of Certification Programs* (NOCA, 2003) by the National Commission for Certifying Agencies (NCCA).

Upon successful completion of the Candidate Examination, an individual will receive an official CASp Certificate, which evidences the successful completion of the examination and certification as a CASp under the Voluntary Certified Access Specialist Program. This certification will be valid for a three year period.

**Proposed adoption of Regulation Section 136** will provide understanding on certification renewal. A CASp becomes eligible for renewal of certification after attaining a passing score on the recertification examination. Successful passage of the recertification examination will result in certification for an additional three year period.

**In Article 4 (Fees)** are adopted to address fees.

**Proposed adoption of Regulation Section 141** will provide clarity on fees amount. In order to participate in the Voluntary Certified Access Specialist Program, the following fees will be required:

- a) Initial certification. The total in fees for initial certification is \$1926.00.
  1. \$525.00 *Application Fee*, for processing Candidate Application; non-refundable.
  2. \$331.00 *Candidate Examination Fee*, to take the Certification Examination; non-refundable.
  3. \$1070.00 *Certification Fee*, for program administration over the initial three-year term of certification; non-refundable.

- b) Certification renewal. The total in fees for certification renewal is \$1400.00.
  - 1. \$330.00 *Recertification Examination Fee* to take the Recertification Examination prior to expiration of the current term of certification; non-refundable.
  - 2. \$1070.00 *Certification Renewal Fee*, for program administration over an additional three-year term of certification; non-refundable.

**In Article 5 (Enforcement)** are adopted to address enforcement.

**Proposed adoption of Regulation Section 151** will provide clarity regarding grounds for certification suspension, or denial of certification renewal.

- a) The State Architect or Designee may suspend certification or deny certification renewal when any of the following conditions exist:
  - 1. The requirements of this subchapter have not been satisfied.
  - 2. The certificate holder or recertification candidate has been convicted of a crime considered to be substantially related to the qualifications, functions or duties of a person holding a certificate to perform the functions authorized by the certificate in a manner consistent with the public health, safety, or welfare. Such crimes shall include but not be limited to the following:
    - (a) A conviction of child abuse.
    - (b) A conviction as a sex offender.
    - (c) The conviction of any crime involving narcotics, dangerous drugs, or dangerous devices, as defined in Section 4022 of the Business and Professions Code.
    - (d) A conviction for assault and/or battery or lewd conduct.
  - 3. The State Architect has received a complaint regarding the work of a CASp and has determined the work has not been performed to generally accepted industry standards.
- b) The notice of suspension of a certificate or denial of a certification renewal shall be in writing and shall specify the basis for the suspension or denial of the certification.

**Proposed adoption of Regulation Section 152** will set the criteria for rehabilitation. When considering initial certification, suspension of certification, or denial of certification renewal of an applicant or certificate holder convicted of a crime, on the grounds of Article 5, Section 151(a), the State Architect or Designee in evaluating the rehabilitation of such person and his/her eligibility for examination or certification may consider the following criteria:

- a) Nature and severity of the act(s) or offense(s).
- b) The time that has elapsed since commission of the act(s) or offense(s).
- c) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

**Proposed adoption of Regulation Section 153** will clarify the appeal process.

- a) Prior to suspending certification or denying certification renewal, the State Architect or Designee will file and serve the CASp with written notice of the action proposed to be taken regarding the certification. The written notice shall include the reasons for the action to be taken, as applicable, and provide a summary of the facts and allegations which form the cause or causes of the action proposed to be taken. The written notice shall also provide information regarding the process for appealing the decision(s).
- b) Service of the written notice of the proposed action to be taken may be by personal service or certified mail.
- c) If a written request appealing the proposed action is delivered to the State Architect Voluntary Certified Access Specialist Program within 15 days from the date of service, the appeal shall be conducted through written submissions. The State Architect or designee shall notify the CASp with a written notice providing the specific dates upon which the Statement of Appeal and supporting documents, if any, shall be filed and the specific location where the Statement of Appeal and supporting documents shall be delivered.

- d) Within 60 days from the date of receipt of the Statement of Appeal, the State Architect or his designee, shall render his determination. The time to render his determination may be extended at the discretion of the State Architect or designee.
- e) To the extent an individual submitting a written request appealing the proposed action requests a hearing, the hearing shall be held as provided for in subsection (f) below.
- f) The State Architect shall designate an appropriate hearing officer to conduct the hearing. The written notice shall include the date and time set for the hearing. The hearing shall be limited in scope to the allegations set forth in the written notice stating the action being taken. The applicant may also bring a representative of his or her choice.
- g) The applicant or CASp shall be notified in writing of the determination by the State Architect or his designee, who shall issue and serve the written decision upon the applicant or CASp of the decision.
- h) The State Architect or his designee has the discretion to order that a certification be temporarily invalidated pending any appeal or hearing and any post-hearing decision of the State Architect.
- i) Any appeal of a decision rendered by the State Architect or his designee regarding certification may be appealed to the Superior Court.

*The Division of the State Architect has made the following initial determinations:*

Mandate on local agencies or school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government code section 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of

California businesses to compete with businesses in other states: None

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None.

### COST IMPACT ON PRIVATE PERSONS

The Division of the State Architect has determined that the proposed regulations will have a cost impact on a private person. Section 4459.8(b) of the Government Code provides that the State Architect require each applicant for certification as a Certified Access Specialist to pay fees, including an application fee and an examination fee, at a level sufficient to meet the costs of application processing, registration, publishing a list, and other activities that are reasonably necessary to implement and administer the Voluntary Certified Access Specialist Program.

The State Architect shall require each applicant for renewal of certification to pay a fee sufficient to cover the reasonable costs of reassessing qualifications of renewal applicants.

Section 4459.9(c) of the Government Code provides that all fees collected shall be deposited into the Certified Access Specialist Fund, which is created in the State Treasury. This fund is continuously appropriated without regard to fiscal years for use by the State Architect to implement Sections 4459.5 to 4459.8 of the Government Code.

The Division of the State Architect has determined that the proposed regulations will not have a cost impact on business. The Voluntary Certified Access Specialist Program allows for voluntary participation on the part of those seeking certification as an Access Specialist.

## EFFECT ON SMALL BUSINESS

The Division of the State Architect has determined that the proposed regulation does not affect small businesses because the regulation does not regulate small businesses, does not require a report or any other compliance activities.

## CONSIDERATION OF ALTERNATIVES

The Division of the State Architect must determine that no reasonable alternative considered by DSA or that has otherwise been identified and brought to the attention of DSA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Division of the State Architect invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

## TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

The Division of the State Architect has prepared an initial statement of reasons that sets forth the reasons for the proposed action and has all the information upon which the proposal is based.

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained from our website as listed below upon written request to the contact person listed below.

## AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Division of the State Architect's website as listed below.

## CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be directed to:

Rod Higgins, Senior Architect (Supervisor)  
Division of the State Architect  
1102 Q Street, Suite 5100  
Sacramento, CA 95814  
(916) 324-1384  
(916) 445-7658 (FAX)  
[rodney.higgins@dgs.ca.gov](mailto:rodney.higgins@dgs.ca.gov)

The backup contact person is:

Jim Vitale, Associate Architect  
Division of the State Architect  
1102 Q Street, Suite 5100  
Sacramento, CA 95814  
(916) 445-1304  
(916) 445-7658 (FAX)  
[jim.vitale@dgs.ca.gov](mailto:jim.vitale@dgs.ca.gov)

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Mr. Vitale at the above address.

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at <http://www.dsa.dgs.ca.gov/CertifiedAccess/default.htm>

#### POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Pursuant to Government Code Section 11346.8, should there be a request, no later than 15 days prior to the close of the written comment period, by any interested person or his or her duly authorized representative that a public hearing be held, the Division of the State Architect will hold a public hearing. After holding the hearing and considering all timely and relevant comments received, the Division of the State Architect may adopt the proposed regulations substantially as described in this notice. If the Division of the State Architect makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Division of the State Architect adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Rod Higgins at the address indicated above. The Division of the State Architect will accept written comments on the modified regulations for 15 days after the date on which they are made available.